

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JOHN WILHELM, et al.,

Plaintiffs/Counterclaim-Defendants,

vs.

NOEL BEASLEY, et al.,

Defendants/Counterclaim-Plaintiffs.
-----X

: Case No. 1:15-cv-04029-LAK-JLC

: **STIPULATION AND [PROPOSED] ORDER**

WHEREAS, this case was commenced on February 11, 2015 in the United States District Court for the District of Nevada and, on May 27, 2015, was transferred to the United States District Court for the Southern District of New York (the "Action");

WHEREAS, on July 29, 2015, Defendants/Counterclaim-Plaintiffs filed a counterclaim against Plaintiffs/Counterclaim-Defendants;

WHEREAS, on February 2, 2016, this Court issued a 60-day stay while Plaintiffs/Counterclaim-Defendants and Defendants/Counterclaim-Plaintiffs discussed a potential resolution of the Action;

WHEREAS, on April 5, 2016, Plaintiffs/Counterclaim-Defendants and Defendants/Counterclaim-Plaintiffs participated in a telephone status conference with United States Magistrate Judge James L. Cott to discuss the status of the case in light of the stay then in effect and the progress of the continuing discussions among the parties; and

WHEREAS, the parties are submitting this Stipulation and Order to the Court in accord with the direction of Magistrate Judge Cott on April 5, 2016.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the parties hereto, that:

1. The Action is hereby dismissed without prejudice, provided however that, at any time through January 31, 2017, the Action is subject to reinstatement, in its entirety, upon motion by either party to United States District Court Judge Lewis A. Kaplan.

2. A party moving for reinstatement of the Action pursuant to Paragraph 1 of this Stipulation and Order shall confer with the other parties prior to filing such motion. No party shall oppose any such motion.

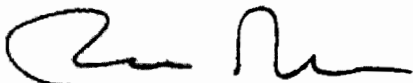
3. Any reinstatement of the Action pursuant to Paragraph 1 of this Stipulation and Order will restore the entire record that exists in this Action up to and including this Stipulation and Order, including, but not limited to, the pleadings, orders and other documents identified on the docket at numbers 1-106 and all objections, responses and correspondence in connection with discovery requests or responses.

4. Notwithstanding the foregoing, if no party moves for reinstatement of the Action pursuant to Paragraph 1 of this Stipulation and Order by January 31, 2017, the Court will dismiss the Action with prejudice.

5. Nothing in this Stipulation and Order shall constitute a waiver by the parties of their respective legal positions in this litigation.

Dated: New York, New York
April 15, 2016

BROACH & STULBERG, LLP
Robert B. Stulberg
One Penn Plaza
New York, NY 10119
(212) 268-1000



DAVIS COWELL & BOWE, LLP
Paul L. More
595 Market Street, Suite 1400
San Francisco, CA 94105
(415) 597-7200

Attorneys for Plaintiffs/Counterclaim-Defendants

SCHULTE ROTH & ZABEL LLP
Ronald E. Richman
Taleah E. Jennings
919 Third Avenue
New York, New York 10022
(212) 756-2000

Attorneys for Defendants/Counterclaim-Plaintiffs

IT IS SO ORDERED, this _____ day of _____, 2016.

HONORABLE LEWIS A. KAPLAN

Dated: New York, New York
April 15, 2016



BROACH & STULBERG, LLP
Robert B. Stulberg
One Penn Plaza
New York, NY 10119
(212) 268-1000

SCHULTE ROTH & ZABEL LLP
Ronald E. Richman
Taleah E. Jennings
919 Third Avenue
New York, New York 10022
(212) 756-2000

Attorneys for Defendants/Counterclaim-Plaintiffs

DAVIS COWELL & BOWE, LLP
Paul L. More
595 Market Street, Suite 1400
San Francisco, CA 94105
(415) 597-7200

Attorneys for Plaintiffs/Counterclaim-Defendants

IT IS SO ORDERED, this _____ day of _____, 2016.

HONORABLE LEWIS A. KAPLAN



Dated: New York, New York
April 15, 2016

BROACH & STULBERG, LLP
Robert B. Stulberg
One Penn Plaza
New York, NY 10119
(212) 268-1000


Taleah E. Jennings /mg
SCHULTE ROTH & ZABEL LLP
Ronald E. Richman
Taleah E. Jennings
919 Third Avenue
New York, New York 10022
(212) 756-2000

Attorneys for Defendants/Counterclaim-Plaintiffs

DAVIS COWELL & BOWE, LLP
Paul L. More
595 Market Street, Suite 1400
San Francisco, CA 94105
(415) 597-7200

Attorneys for Plaintiffs/Counterclaim-Defendants

IT IS SO ORDERED, this 19 day of May, 2016.



HONORABLE LEWIS A. KAPLAN